

**Before the
Federal Communications Commission
Washington, DC 20554**

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|---------------------------------|---|----------------------|
| In the Matter of |) | |
| |) | |
| Wireless E911 Location Accuracy |) | PS Docket No. 07-114 |
| Requirements |) | |

COPPER VALLEY WIRELESS, LLC PETITION FOR TEMPORARY WAIVER

Copper Valley Wireless, LLC (“CVW”), by its attorneys and pursuant to Sections 1.3 and 1.925 of the Rules and Regulations of the Federal Communications Commission (“FCC” or “Commission”), hereby seeks a temporary waiver of Section 20.18(i) of the FCC’s rules. The public safety answering points (“PSAPs”) serving CVW’s service area are not capable of receiving or utilizing indoor or outdoor 911 location data and/or have not requested that CVW provide such location data. Until such PSAPs are capable of receiving and utilizing indoor location data, CVW seeks a waiver of the indoor location accuracy and associated reporting requirements of Section 20.18(i).

I. BACKGROUND

CVW is a small wireless telecommunications carrier providing service in the Copper River valley area of Alaska and Prince William Sound, a remote and sparsely populated area in southcentral Alaska. This area encompasses approximately 20,649 square miles and is bounded by the Gulf of Alaska to the south, the Alaska Range to the north, the Wrangell-St. Elias National Park and Preserve to the east, and the Talkeetna and Chugach Mountains to the west. Due to the size of its service area, the low population density, and the challenging weather and

terrain, CVW relies on the FCC's high cost funding programs to maintain its expansive wireless network.

CVW is served by three PSAPs – the Valdez Police and Fire Department (“Valdez”), Cordova Police-Fire Department (“Cordova”), and the Matanuska-Susitna Borough (“Matanuska”).¹ CVW currently provides Basic 911 service. In other words, in accordance with Section 20.18(b) of the Commission's rules, CVW transmits all wireless calls to a PSAP or appropriate local emergency authority.

The FCC's rules impose additional obligations on wireless carriers who receive a request for Phase I or Phase II enhanced 911 (“E911”) service from a designated PSAP which is capable of receiving and utilizing the requested data elements.² CVW is not subject to a valid request for Phase I or Phase II E911 service from any of its PSAPs or local emergency authority.³ Moreover, the Cordova and Matanuska PSAPs have stated to CVW that they are currently unable to receive or utilize Phase I or Phase II location data and/or indoor location data.⁴ CVW is currently working with the Valdez PSAP to provide Phase I E911 service, but the Valdez PSAP is currently unable to receive or utilize Phase I, Phase II, or indoor location data, and has not requested that CVW provide Phase I service.

¹ Because no PSAP or designated statewide default answering point exists in the Glennallen portion of CVW's service territory, 911 calls placed in Glennallen are routed to the local trooper station which typically automatically forwards them to the police department and Matcom dispatch office in Wasilla, Alaska.

² See 47 C.F.R. §20.18(d)-(g); §20.18(m).

³ The Matanuska PSAP made a request for Phase I and Phase II service from CVW, but subsequently formally withdrew that request on July 7, 2009.

⁴ The Matanuska PSAP is unable to receive or utilize indoor location data, while the Cordova PSAP and Wasilla dispatch office are unable to receive or utilize any type of location data. See also Cordova Wireless Communications, LLC Petition for Temporary Waiver, CC Docket No. 94-102, filed February 3, 2017 (noting that the PSAP for the City of Cordova is not capable of receiving and utilizing Phase II E911 location data or indoor location accuracy data).

In 2015, the Commission adopted amendments to its E911 rules which established new indoor location accuracy requirements.⁵ Although the requirements as originally adopted conditioned a wireless carrier's obligation to meet certain indoor location accuracy benchmarks on the receipt of a valid PSAP request for indoor location accuracy data, the Commission subsequently issued, without explanation, an Erratum that removed this condition.⁶

II. CVW Satisfies the FCC's Waiver Standard

The Commission has authority to grant a waiver under Section 1.3 of the rules if the petitioner demonstrates good cause for such action.⁷ Good cause, in turn, may be found, and a waiver granted, "where particular facts would make strict compliance inconsistent with the public interest."⁸

In addition, Section 1.925 of the FCC's Rules permits the Commission to grant a request for waiver if it is shown that:

- (i) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or

⁵ *Wireless E911 Location Accuracy Requirements*, PS Docket No. 07-114, Fourth Report and Order, rel. Feb. 3, 2015 ("Fourth Report and Order"); 47 C.F.R. §20.18(i).

⁶ *Wireless E911 Location Accuracy Requirements*, PS Docket No. 07-114, Erratum, rel. March 3, 2015 (Erratum), at par. 6.

⁷ 47 C.F.R. § 1.3. *See also* *ICO Global Communications (Holdings) Limited v. FCC*, 428 F.3d 264 (D.C. Cir. 2005); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969).

⁸ *Northeast Cellular*, 897 F.2d at 1166; *see also* *ICO Global Communications*, 428 F.3d at 269 (quoting *Northeast Cellular*); *WAIT Radio*, 418 F.2d at 1157-59.

- (ii) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.

Good cause exists for grant of the requested waiver. Because the PSAPs in CVW's service area are not prepared to receive or utilize indoor location data, and have not requested such data, there is no public interest benefit to requiring CVW to provide such data at this time, and there is public interest harm in requiring CVW to incur the unnecessary expense of complying with Section 20.18(i) when doing so will result in no benefit to 911 callers yet will prevent CVW from using those resources to improve the services it offers.

The underlying purpose of the FCC's E911 rules and its indoor location accuracy rule is to enhance public safety by ensuring that PSAPs are able to rapidly locate and respond to individuals who place calls for emergency assistance by dialing 9-1-1 on a mobile wireless device. This purpose would not be served by requiring CVW to expend the resources that would allow it to provide indoor location accuracy data at this time because such data provides no assistance to its PSAPs who are currently incapable of receiving or utilizing such data. Although the Commission did not explain why its Erratum removed the precondition of PSAP readiness from Section 20.18(i), that same rule section will only allow a PSAP to request FCC enforcement of the indoor location requirements if it has "implemented policies that are designed to obtain all location information made available by CMRS providers when initiating and delivering 911 calls to the PSAP."⁹ Here, because the PSAPs in CVW's service area have not implemented policies to obtain indoor location (or, in the case of the Cordova PSAP and Wasilla dispatch, *any*) location data, the FCC's rules preclude these PSAPs from even requesting FCC

⁹ 47 C.F.R. §20.18(i)(2)(iv).

enforcement of Section 20.18(i). Clearly, a temporary waiver until each PSAP is capable of receiving and utilizing indoor location data and formally requests it is consistent with the underlying purpose of Section 20.18(i).

Requiring CVW to provide location data to PSAPs that can't use it is inequitable, unduly burdensome, and contrary to the public interest. The resources that CVW would be required to expend in order to become capable of providing its PSAPs with information that would be meaningless to them could instead be spent to upgrade CVW's network. A waiver will therefore serve the public interest by allowing CVW to expand its 4G LTE network in its remote and difficult-to-serve service territory.

The FCC has recognized that "special circumstances particular to smaller carriers may warrant relief from 911 requirements."¹⁰ Indeed, the specific examples of such circumstances noted by the Commission – "financial constraints, small and/or widely dispersed customer bases, and large service areas that are isolated, rural, or characterized by difficult terrain (such as dense forest or mountains)"¹¹ – *all* apply to CVW. These factors further support a finding of unique or unusual factual circumstances that justify a waiver in this case. The public interest will be well served by allowing CVW to devote its scarce resources to providing wireless service in its remote, rugged, sparsely populated, and costly-to-serve service territory.

¹⁰ *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Petitions for Waiver of Enhanced 911 Phase II Requirements*, Order, CC Docket No. 94-102, rel. March 9, 2007, at par. 7.

¹¹ *Id.*

No PSAPs will be harmed by a grant of the instant waiver request.¹² When a PSAP has developed the capability to receive and utilize location data and requested that CVW provide it, CVW will then devote its scarce resources to providing such data. In the meantime, the interest of the public that the PSAPs were established to serve, is best served by allowing CVW to utilize those resources in the provision of critical, and sometimes lifesaving, service.¹³

For the foregoing reasons, CVW requests a temporary waiver of Section 20.18(i) with respect to each PSAP until such PSAP is able to receive and utilize indoor location accuracy data and makes a bona fide request for such data.

Respectfully submitted,

COPPER VALLEY WIRELESS, LLC

/s/ Michael R. Bennet

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Its Attorney

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Date: March 29, 2017

¹² The Valdez PSAP supports the grant of the instant waiver request. *See* Exhibit A, attached hereto.

¹³ *See* Letter from Shilah Butler, Copper Valley Telecom, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90, WT Docket No. 10-208 (describing an instance where “yet another human life was saved thanks to a timely 911 emergency call that was connected to first responders via a remote Copper Valley Wireless cell site”).

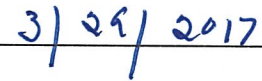
DECLARATION OF DAVE DENGEL

I, Dave Dengel, do hereby declare under penalty of perjury the following:

1. I am the Chief Executive Officer and General Manager of Copper Valley Wireless, LLC.
2. I have reviewed the foregoing Petition for Temporary Waiver. I have personal knowledge of the facts set forth therein and believe them to be true and correct.



Dave Dengel



Date

Exhibit A



VALDEZ POLICE DEPARTMENT
P.O. BOX 307
VALDEZ, ALASKA 99686
907-835-4560 (PHONE)
907-834-3412 (FAX)



March 17, 2017

To Whom It May Concern,

Copper Valley Wireless provides cellular service to the area that is serviced by the Valdez Police Department (and the associated PSAP). As such, they are required to comply with the Federal Communication Commission's indoor location accuracy rule (47 C.F.R. 20.18(i)(2)(i)(B)(i)) by April 3, 2017.

However, the Valdez Police Department does not at this time have the ability to receive or use indoor location accuracy data or Phase II E911 location data. We fully support Copper Valley Wireless' request for a waiver of 47 CFR 20.18(i) until such time as we are prepared to receive and use the data.

Thank you for your consideration in this matter.

Respectfully,

Bart Hinkle
Chief of Police
Valdez Police Department

CERTIFICATE OF SERVICE

I hereby certify that I have on this day of March 29, 2017, served a true copy of the foregoing document by electronic mail upon the following:

Timothy May
Policy and Licensing Division
Public Safety & Homeland Security Bureau
Timothy.May@fcc.gov

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/s/ Linda Braboy

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